

CAUSE NO. C-1-CV-19-009949

IN RE ATHIGE DENZIL DESILVA

PETITIONER

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IN THE TRAVIS COUNTY

COURT AT LAW NO. 1

TRAVIS COUNTY, TEXAS

PETITION TO TAKE DEPOSITIONS UNDER RULE 202

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Athige Denzil Desilva hereinafter Petitioner asking the Court for permission to take the oral depositions with *subpoena duces tecum* and deposition by written questions of the relevant City of Austin staff and employees to investigate potential actions that are civil in nature, as authorized by the Texas Rules of Civil Procedure 202, all causes of action arise out of the death of Mr. DeSilva's son Dr. Mauris DeSilva at the hands of Austin police officers:

I.

INTRODUCTION

Petitioner is an individual who resides in Minnesota.

Petitioner seeks to depose the City of Austin personnel who possess or control the relevant evidence in a potential civil suit involving the shooting death of Dr. Mauris DeSilva.

The City of Austin will be served with this Petition as follows:

To Defendant City of Austin for service upon any of the following three persons:

a. Jannette Goodall, City Clerk, at 301 W. 2nd Street, Austin, Texas 78701; 512.974.2210; jannette.goodall@austintexas.gov; or

b. Art Alfaro, City Treasurer, 301 W. 2nd Street, Austin, Texas 78701; 512.974.7890; art.alfaro@austintexas.gov; or

c. Mayor Steve Adler, 301 W. 2nd Street, Austin, Texas 78701; 512.978.2200.

II.

RELEVANT FACTUAL BACKGROUND AND DESCRIPTION OF SUBJECT MATTER OF REQUESTED DEPOSITION

On July 31st, 2019 Dr. Mauris DeSilva was shot to death by City of Austin Police Officers inside the Spring Condominiums, where he resided. A copy of Dr. DeSilva's death certificate is attached as Ex 1.

Petitioner believes that a case for violations of 42 U.S.C. §1983 may lie, as well as other relevant causes of action as the conduct of the peace officers in questions was inappropriate and the force used was excessive.

Plaintiff seeks deposition of City of Austin Police Officers Karl Krycia, Christopher Taylor, and Joseph Cast to explore their excessive use of force which led to the demise of Dr. Mauris DeSilva.

Petitioner also requests the production of documents and other materials, including all available video regarding the following topics, to wit:

911 recordings, all body camera recordings, all CAD reports, all calls for service, all accident/crash reports, all crime statistics, all dash camera recordings, all employments/personnel files, all evidence collected, all HALO videos, all incidents and the full reports, all mug shots, all policies and procedures, all SSPR/Job performance evaluations, all timesheets and payroll records, and all training records for the following officers: Karl Krycia, Christopher Taylor, and Joseph Cast for date of incident July 31, 2019.

Time of occurrence: 4:55PM

Location: 300 Bowie Street, Austin Texas 78703

**Parties: Karl Krycia, Christopher Taylor, Joseph Cast, Dr. Mauris DeSilva
(Deceased)**

III.

REQUEST TO DEPOSE

Based on information and belief it appears that City of Austin Police Officers Karl Krycia, Christopher Taylor, and Joseph Cast used excessive force against Dr. DeSilva that ultimately led to his demise on July 31, 2019 in that Dr. DeSilva died of multiple gunshots from the guns of the officers.

Petitioner seeks to depose City of Austin Police Officers Karl Krycia, Christopher Taylor, and Joseph Cast for date of incident July 31, 2019 to investigate potential actions civil in nature against one or both persons, including but not limited to claims under 42 U.S.C. § 1983.

IV.

REQUEST FOR PRODUCTION

Petitioner asks the Court to order the City of Austin to produce the following documents or tangible items:

- A. All 911 recordings
- B. All body camera recordings
- C. All CAD reports and all calls for service
- D. All accident/crash reports
- E. All crime statistics
- F. All dash camera recordings
- G. All employments/personnel files
- H. All evidence collected
- I. All HALO videos
- J. All incident reports
- K. All policies and procedures
- L. All SSPR/Job performance evaluations
- M. All timesheets and payroll records

N. All training records for the following officers: Karl Krycia, Christopher Taylor, and Joseph Cast for date of incident July 31, 2019.

Time of occurrence: 4:55PM

Location: 300 Bowie Street, Austin Texas 78703

Parties: Karl Krycia, Christopher Taylor, Joseph Cast

V.

NEED FOR DEPOSITIONS

The City of Austin has refused to voluntarily provide the requested items. See Response to Petitioner's Open Records Request, attached as Ex. 2. Petitioner believes that is because the excessive force used by the police officers in question will be obvious to all once all evidence is adduced.

The Petition Under Rule 202 should be granted, therefore, because the information sought cannot be obtained from any other source or through any other means. It is for this reason that Petitioner must use this procedural route. The specific criteria set forth by Rule 202 are fully met for the sought-after depositions.

For the reasons recounted, the likely benefits of allowing Petitioner to take the requested depositions significantly outweighs the burden or expense of the procedure. Equally important, allowing Petitioner to take the requested oral depositions may prevent a failure or delay of justice. Proof of excessive use of force against Dr. DeSilva could reveal the valid existence of civil claims and suits by Petitioner. The evidence could serve as the basis for initiating other proceedings civil in nature. See Gonzales v Rodriguez, 250 S.W. 2d 253, 255 (Tex. App – San Antonio 1952, no writ)(holding that the precursor to Rule 202 “is not to be applied only to ‘civil suits’ but is to be applied to in all ‘actions of a civil nature’, which would include all proceedings of a civil nature”).

VI.

PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Petitioner requests that the Court hold a hearing on this Petition after service of this Petition and notice, Pursuant to Tex. R. Civ. P. 202.3(a). After the hearing he asks the Court to order the depositions of Officers Karl Krycia, Christopher Taylor, and Joseph Cast along with the production of the documents and tangible items listed in the petition, at a specific time, place and date.

Respectfully submitted,

DUNAWAY LAW FIRM, P.C.
1411 West Avenue, Suite 100
Austin, Texas 78701
(512) 469-7941
FAX (512) 479-9510
atty@austinfairlaw.com



Aspen J. Dunaway

State Bar No. 24034425

Board Certified, Personal Injury Trial Law

Texas Board of Legal Specialization

Attorney for Plaintiff Desilva

VERIFICATION OF ASPEN J. DUNAWAY

THE STATE OF TEXAS

§

§

COUNTY OF TRAVIS

§

Before me, the undersigned notary, on this day personally appeared ASPEN J. DUNAWAY, a person whose identity is known to me. After I administered an oath to HIM, upon HIS oath, HE said that HE had read the foregoing Petition to Take Depositions under Rule 202 and the facts stated in it are within HIS personal knowledge and true and correct.

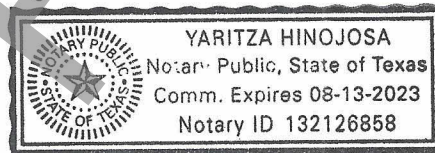


ASPEN J. DUNAWAY

SWORN TO and SUBSCRIBED before me by ASPEN J. DUNAWAY this 5th day of December, 2019



Notary Public in and for the State of Texas



STATE OF TEXAS

CERTIFICATION OF VITAL RECORD

DEPARTMENT OF STATE HEALTH SERVICES VITAL STATISTICS

TEXAS DEPARTMENT OF STATE HEALTH SERVICES - VITAL STATISTICS

Aug 07 2019

STATE OF TEXAS

CERTIFICATE OF DEATH

STATE FILE NUMBER

142-19-118244

1. LEGAL NAME OF DECEASED (Include AKA's, if any) (First, Middle, Last)				2. DATE OF DEATH - ACTUAL OR PRESUMED (mm-dd-yyyy)	
MAURIS NISHANGA DE SILVA				JULY 31, 2019	
3. SEX	4. DATE OF BIRTH (mm-dd-yyyy)	5. AGE-Last Birthday (Years)	IF UNDER 1 YR Mo Days	IF UNDER 1 DAY Hours Min	6. BIRTHPLACE (City & State or Foreign Country)
MALE	MAY 1, 1973	46			SRI LANKA
7. SOCIAL SECURITY NUMBER		8. MARITAL STATUS AT TIME OF DEATH		9. SURVIVING SPOUSE'S NAME (If spouse, give name prior to first marriage)	
		<input type="checkbox"/> Married <input type="checkbox"/> Divorced (but not remarried) <input checked="" type="checkbox"/> Never Married <input type="checkbox"/> Unknown			
10a. RESIDENCE STREET ADDRESS			10b. APT. NO.	10c. CITY OR TOWN	
300 BOWIE ST			1708	AUSTIN	
10d. COUNTY		10e. STATE	10f. ZIP CODE	10g. INSIDE CITY LIMITS?	
TRAVIS		TEXAS	78703	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
11. FATHER/PARENT 2 NAME PRIOR TO FIRST MARRIAGE			12. MOTHER/PARENT 1 NAME PRIOR TO FIRST MARRIAGE		
ATHIGE DENZIL DESILVA			ALAGIYADURA J FERNANDO		
13. PLACE OF DEATH (CHECK ONLY ONE)					
IF DEATH OCCURRED IN A HOSPITAL: <input type="checkbox"/> Inpatient <input checked="" type="checkbox"/> ER/Outpatient <input type="checkbox"/> DCA IF DEATH OCCURRED SOMEWHERE OTHER THAN A HOSPITAL: <input type="checkbox"/> Hospice Facility <input type="checkbox"/> Nursing Home <input type="checkbox"/> Decedent's Home <input type="checkbox"/> Other (Specify)					
14. COUNTY OF DEATH		15. CITY/TOWN, ZIP (If OUTSIDE CITY LIMITS, GIVE PRECINCT NO)		16. FACILITY NAME (If not institution, give street address)	
TRAVIS		AUSTIN, 78701		DELL SETON MEDICAL CENTER AT UT	
17. INFORMANT'S NAME & RELATIONSHIP TO DECEASED			18. MAILING ADDRESS OF INFORMANT (Street and Number, City, State, Zip Code)		
ATHIGE DENZIL DESILVA - FATHER			1009 E. 144TH ST., BURNSVILLE, MN 55337		
19. METHOD OF DISPOSITION		20. SIGNATURE AND LICENSE NUMBER OF FUNERAL DIRECTOR OR PERSON ACTING AS SUCH		21.	
<input type="checkbox"/> Burial <input checked="" type="checkbox"/> Cremation <input type="checkbox"/> Donation <input type="checkbox"/> Entombment <input type="checkbox"/> Removal from state <input type="checkbox"/> Mausoleum <input type="checkbox"/> Other (Specify)		DIANA REYNA, BY ELECTRONIC SIGNATURE - 117226		<input checked="" type="checkbox"/> Unknown Section _____ Block _____ Lot _____ Space _____	
22. PLACE OF DISPOSITION (Name of cemetery, crematory, other place)			23. LOCATION (City/Town, and State)		
SUPERIOR CREMATORY SER			AUSTIN, TX		
24. NAME OF FUNERAL FACILITY			25. COMPLETE ADDRESS OF FUNERAL FACILITY (Street and Number, City, State, Zip Code)		
A SIMPLE TRADITION FUNERAL SERVICE			1611 E. CESAR CHAVEZ, AUSTIN, TX 78702		
26. CERTIFIER (Check only one)					
<input type="checkbox"/> Certifying physician-To the best of my knowledge, death occurred due to the cause(s) and manner stated. <input checked="" type="checkbox"/> Medical Examiner/Justice of the Peace - On the basis of examination, and/or investigation, in my opinion, death occurred at the time, date and place, and due to the cause(s) and manner stated.					
27. SIGNATURE OF CERTIFIER		28. DATE CERTIFIED (mm-dd-yyyy)	29. LICENSE NUMBER	30. TIME OF DEATH (Actual or presumed)	
TIMOTHY FAGEN, D.O. BY ELECTRONIC SIGNATURE		AUGUST 7, 2019	R9952	06:07 PM	
31. PRINTED NAME, ADDRESS OF CERTIFIER (Street and Number, City, State, Zip Code)				32. TITLE OF CERTIFIER	
TIMOTHY FAGEN, D.O. 7723 SPRINGDALE RD, AUSTIN, TX 78724				DEPUTY M.E.	
33. PART 1. ENTER THE CHAIN OF EVENTS - DISEASES, INJURIES, OR COMPLICATIONS - THAT DIRECTLY CAUSED THE DEATH. DO NOT ENTER TERMINAL EVENTS SUCH AS CARDIAC ARREST, RESPIRATORY ARREST, OR VENTRICULAR FIBRILLATION WITHOUT SHOWING THE ETIOLOGY. DO NOT ABBREVIATE. ENTER ONLY ONE CAUSE ON EACH.				Approximate Interval Onset to death	
IMMEDIATE CAUSE (Final disease or condition resulting in death)				SECONDS TO MINUTES	
a. MULTIPLE GUNSHOT WOUNDS					
Due to (or as a consequence of):					
b.					
Due to (or as a consequence of):					
c.					
Due to (or as a consequence of):					
d.					
PART 2. ENTER OTHER CAUSE GIVEN IN PART 1.					
SIGNIFICANT CONDITIONS CONTRIBUTING TO DEATH BUT NOT RESULTING IN THE UNDERLYING					
34. WAS AN AUTOPSY PERFORMED? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No					
35. WERE AUTOPSY FINDINGS AVAILABLE TO COMPLETE THE CAUSE OF DEATH? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No					
36. MANNER OF DEATH		37. DID TOBACCO USE CONTRIBUTE TO DEATH?		38. IF FEMALE:	
<input type="checkbox"/> Natural <input type="checkbox"/> Accident <input type="checkbox"/> Suicide <input checked="" type="checkbox"/> Homicide <input type="checkbox"/> Pending Investigation <input type="checkbox"/> Could not be determined		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Previously <input type="checkbox"/> Probably <input type="checkbox"/> Unknown		<input type="checkbox"/> Not pregnant within past year <input type="checkbox"/> Pregnant at time of death <input type="checkbox"/> Not pregnant, but pregnant within 42 days of death <input type="checkbox"/> Not pregnant, but pregnant 43 days to one year before death <input type="checkbox"/> Unknown if pregnant within the past year	
39. IF TRANSPORTATION INJURY, SPECIFY:					
<input type="checkbox"/> Driver/Operator <input type="checkbox"/> Passenger <input type="checkbox"/> Pedestrian <input type="checkbox"/> Other (Specify)					
40a. DATE OF INJURY (mm-dd-yyyy)		40b. TIME OF INJURY	40c. INJURY AT WORK?	40d. PLACE OF INJURY (e.g. Decedent's home, construction site, restaurant, wooded area)	
JULY 31, 2019		05:30 PM	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	APARTMENT COMPLEX HALLWAY 5TH FLOOR	
40e. LOCATION (Street and Number, City, State, Zip Code)			40f. COUNTY OF INJURY		
300 BOWIE ST, AUSTIN, TX 78703			TRAVIS		
41. DESCRIBE HOW INJURY OCCURRED					
THE DECEDENT WAS SHOT BY OTHER PERSON(S)					
42a. REGISTRAR FILE NO.		42b. DATE RECEIVED BY LOCAL REGISTRAR	42c. REGISTRAR		
			Tara Das		

EDR NUMBER 000044444540924

This is a true and correct copy of the record as registered in the State of Texas. Issued under the authority of Section 191.051, Health and Safety Code.

ISSUED Aug 08 2019

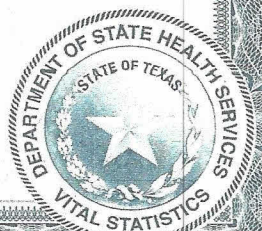
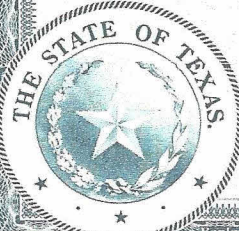
WARNING: THIS DOCUMENT HAS A DARK BLUE BORDER AND A COLORED BACKGROUND

ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE

PLAINTIFF'S EXHIBIT

JON

TARA DAS
STATE REGISTRAR





City of Austin

Law Department

City Hall, 301 West 2nd Street, P.O. Box 1088
Austin, Texas 78767-8828
(512) 974-2268

Writer's Direct Line
(512) 974-2509

Writer's Fax Line
(512) 974-2312

October 14, 2019

VIA HAND DELIVERY

Honorable Ken Paxton
Attorney General of Texas
Open Records Division
209 W. 14th Street
Austin, Texas 78701

Re: Open Records Request received from Ms. Michelle Raji on
September 30, 2019. (R025028)

Dear Attorney General Paxton,

The Austin Police Department ("the department") received a request for information from Ms. Michelle Raji on September 30, 2019. Thus, today is the tenth business day since the department's receipt of Ms. Raji's request for purposes of timely filing a request for decision under section 552.301 of the Government Code. The department believes the responsive information is excepted from disclosure under section 552.108 of the Government Code. This letter is a request for a determination under section 552.301 of the Government Code that the requested information is so excepted.¹ A copy of the request and representative samples of the information at issue pertaining to the requested incident are enclosed.

By copy of this letter the department is notifying the requestor that the department wishes to withhold the requested information and has asked for a decision from the Attorney General as to whether this information is within an exception to public disclosure.

¹ The department will be providing the requestor with link to access the department's policies and is referring the requestor to the City of Austin's Civil Service office to for the personnel files.

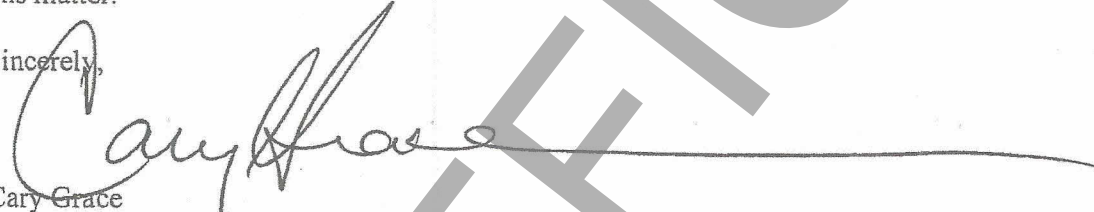


The requestor is seeking various records pertaining to an officer involved shooting that occurred on July 31, 2019. Section 552.108(a) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime." Generally, a governmental body claiming Section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. See Gov't. Code §§ 552.108(a)(1), 552.108(b)(1), and 552.301(e)(1)(a); see also *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

The requested information pertains to ongoing criminal investigation. The supervisor of the detectives assigned to this investigation has advised the undersigned that release of the requested information would interfere with this ongoing investigation. Accordingly, it is the department's position that the release of information pertaining to this investigation would interfere with the detection, investigation, or prosecution of crime, and the department seeks to withhold the information represented by the enclosed records under Section 552.108(a)(1).

Please do not hesitate to contact me at (512) 974-2509 if you have any questions concerning this matter.

Sincerely,



Cary Grace
Assistant City Attorney

aws/
Enclosures

cc: (without enclosures)
Ms. Michelle Raji
2109 Maldon Place
League City, TX 77573



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 24, 2019

Ms. Cary Grace
Assistant City Attorney
City Of Austin Law Department
P. O. Box 1088
Austin, Texas 78767-8828

OR2019-30014

Re: Request for ORR R025028

Dear Ms. Grace:

The Office of the Attorney General has received your request for a ruling and assigned your request ID# 802559.

After reviewing your arguments and the submitted information, we have determined your request does not present a novel or complex issue. Thus, we are addressing your claims in a memorandum opinion. You claim the submitted information may be withheld from the requestor pursuant to section 552.108(a)(1) of the Government Code. Upon review of your arguments and the submitted information, we conclude you may withhold the submitted information under section 552.108(a)(1). However, you must release the basic information pursuant to section 552.108(c) of the Government Code.

For more information on the cited exception, please refer to the open government information on our website at <https://www.texasattorneygeneral.gov/open-government/governmental-bodies/open-records-memorandum-rulings>. You may also contact our Open Government Hotline at 1-877-OPENTEX.

Enc. Submitted documents

c: Requestor
(w/o enclosures)



City of Austin

Law Department

City Hall, 301 West 2nd Street, P.O. Box 1088
Austin, Texas 78767-8828
(512) 974-2268

Writer's Direct Line
(512) 974-2509

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(512) 974-2312

October 21, 2019

VIA FIRST CLASS MAIL

Honorable Ken Paxton
Attorney General of Texas
Open Records Division
MC-014
P.O. Box 12548
Austin, Texas 78711-2548

Re: Open Records Request from Ms. Michelle Raji received October 2, 2019.
(R025118)

Dear Attorney General Paxton,

This is a follow up to my correspondence dated October 16, 2019. As noted in that letter, the Austin Police Department ("the department") received a request for information from Ms. Michelle Raji on October 2, 2019. The department believes the requested information is excepted from disclosure under section 552.101 of the Government Code. This letter is a request for a determination under section 552.301 of the Government Code that the requested information is so excepted.¹ Representative samples of the records at issue are enclosed.²

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes, such as section 143.089(g)

¹ As noted in my October 16th correspondence, the department submitted a request for ruling in response to another request from Ms. Raji on October 14, 2019. Because Ms. Raji seeks information related to the same officer involved shooting via these two requests, the department asks that your office issue one ruling that addresses both requests.

² The City of Austin's Office of Police Oversight does not maintain any information that is responsive to the request, and neither the City nor the department possess information from Travis County District Attorney's office.

of the Local Government Code. The City of Austin Police Department is a civil service organization covered by section 143 of the Local Government Code. Section 143.089 contemplates two different types of personnel files, a police officer's civil service file that the civil service director is required to maintain, and an internal file that the police department may maintain for its own use. Local Gov't Code § 143.089(a), (g).

In cases in which a police department investigates a police officer's misconduct and takes disciplinary action against an officer, it is required by section 143.089(a)(2) to place all investigatory records relating to the investigation and disciplinary action, including background documents such as complaints, witness statements, and documents of like nature from individuals who were not in a supervisory capacity, in the police officer's civil service file maintained under section 143.089(a).³ *Abbott v. City of Corpus Christi*, 109 S.W.3d 113, 122 (Tex. App.--Austin 2003, no pet.). All investigatory materials in a case resulting in disciplinary action are "from the employing department" when they are held by or in possession of the department because of its investigation into a police officer's misconduct, and the department must forward them to the civil service commission for placement in the civil service personnel file. *Id.* Such records are subject to release under the Act. *See id.* § 143.089(f); Open Records Decision No. 562 at 6 (1990).

However, a document relating to a police officer's alleged misconduct may not be placed in his civil service personnel file if there is insufficient evidence to sustain the charge of misconduct. Local Gov't Code § 143.089(b). Information that reasonably relates to a police officer's employment relationship with the police department and that is maintained in a police department's internal file pursuant to section 143.089(g) is confidential and must not be released. *City of San Antonio v. San Antonio Express-News*, 47 S.W.3d 556 (Tex. App.--San Antonio 2000, pet. denied); *City of San Antonio v. Tex. Attorney General*, 851 S.W.2d 946, 949 (Tex. App.--Austin 1993, writ denied).

The submitted information is maintained solely in the police department's internal files pursuant to section 143.089(g). Specifically, the information consists of the named officers' training histories and routine personnel records (labeled **Exhibit A**) and documentation related to an ongoing administrative investigation being conducted by the department's Internal Affairs Division concerning the officers' actions in the officer-involved shooting that is the subject of Ms. Raji's requests (labeled **Exhibit B**). Because the administrative investigation is ongoing, no disciplinary action has been taken by the Chief at this time. Accordingly, the department believes that all of the requested information is confidential pursuant to section 143.089(g) of the Local Government Code and must be withheld under section 552.101.

³ Chapter 143 prescribes the following types of disciplinary actions: removal, suspension, demotion, and uncompensated duty. *See* Local Gov't Code §§ 143.051-.055. A letter of reprimand does not constitute discipline under chapter 143.

Please do not hesitate to contact me at (512) 974-2509 if you have any questions concerning this matter.

Sincerely,



Cary Grace
Assistant City Attorney

aws/
Enclosures

cc: (without enclosures)
Ms. Michelle Raji
2109 Maldon Place
League City, TX 77573

UNOFFICIAL



City of Austin
Law Department

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Austin, Texas 78767-8828
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Writer's Fax Line
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November 6, 2019

VIA FIRST CLASS MAIL

Honorable Ken Paxton
Attorney General of Texas
Open Records Division
MC-014
P.O. Box 12548
Austin, Texas 78711-2548

Re: Open Records Request from Ms. Aspen Dunaway received October 23, 2019.
(R026515). **Your ID#803469**

Dear Attorney General Paxton,

This correspondence is a supplement to my October 21, 2019 request for a decision concerning a public information request the Austin Police Department ("the department") received from Ms. Michelle Raji on October 2, 2019. Representative samples of the information at issue were forwarded to your office on that date, along with the department's arguments for withholding that information. Your office has assigned ID #803469 to that file.

Please find enclosed a copy of a new public information request the department received on October 23, 2019, from Ms. Aspen Dunaway for the records that are also at issue in ID #803469.¹ This supplemental request for ruling is being submitted within the ten-business day deadline specified in section 552.301 for seeking a ruling from your office. The department asserts and fully incorporates the arguments it made under section 552.101 of the Government Code for withholding the officers'

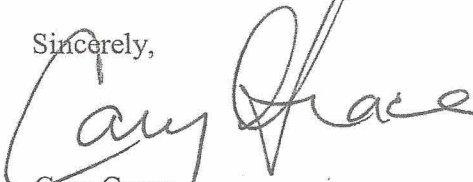
¹ Please note that some of the information requested by Ms. Dunaway was the subject of a prior ruling issued by your office. In OR2019-30014, your office ruled that the criminal investigatory records related to the officer-involved shooting at issue are excepted from disclosure under section 552.108 of the Government Code. The criminal records requested by Ms. Dunaway that exist (no HALO videos or mug shots exist) are precisely the same records that were at issue in OR2019-30014. The law, facts, and circumstances on which ruling OR2019-30014 was based have not changed since the issuance of that ruling. As such, the department will continue to rely on OR2019-30014 for the criminal investigatory records.

Letter to Honorable Ken Paxton
November 6, 2019
Page 2 of 2

personnel records and training records as outlined in my October 21, 2019 request for decision and asks that you combine this request for a ruling with my October 21 request for ruling, and address both requests in one letter ruling.²

If you have any questions concerning this matter, do not hesitate to call me at (512) 974-2509.

Sincerely,


Cary Grace
Assistant City Attorney

aws/Enc.

cc: (without enclosures)
Ms. Aspen Dunaway
1411 West Avenue, Suite 100
Austin, TX 78701

² The department has provided the requestor with access to the department's policies and procedures and crime statistics database. City of Austin Civil Service Office will be making the civil service files of the officers in question available to both requestors.

austintexas.gov



Public Records Center

Public Records Menu

- Home
- Submit a Request
- My Request Center
- Public Records Archive
- Trending Topics
- Logout

Service Request Type:

Austin Police Department

Description:

Public information request for the Austin TX Police Department

Contact E-Mail:

admin@austinfoirlaw.com

Reference No:

R026515-102319

Status:

Sent to AG

Balance Due:

\$0.00

Payments:

\$0.00

FAQs

Search FAQs Q

UPLOAD DATE

DOWNLOAD ALL

My computer won't let me download the files when I click on them.

How much does it cost to make a Public Information Request?

How can I make a Public Information Act request?

How do I obtain a crash/accident report?

Can I ask that any fees be waived?

How do I obtain a copy of an officer's body camera recording?

Files:	10/28/2019	GO20 [REDACTED]_Redacted.pdf
	10/28/2019	APD_-_Previous_Determination_2_10282019.pdf

In accordance with the Public Information Act, Chapter 552 of the Texas Government Code, the City of Austin, TX makes all of its public records available to citizens. The Public Information Act does not require governmental bodies to create new information, perform legal research, or to answer questions. The request must ask for records or information already in existence.

Please be advised that the Austin Police Department's Central Records Division receives over 2500 requests for information a month. These requests are processed in the order received, and we strive to respond to each request promptly, as required by law.

Please know that, as a result of the large volume of requests received, the anticipated timeframe for responding to your request is approximately 45-60 business days.

For more information on the Public Information Act, please visit the Texas Attorney General website.

Type of Records:

- 911 Recording
- Body Camera Recording
- CAD Report
- Calls for Service
- Accident/Crash Report
- Crime Statistics
- Dash Camera Recording
- Employment/Personnel File
- Evidence
- HALO Video
- Incident/Full Report

Powered by
GovQA

SSPR/Job Performance Evaluations
Timesheets/Payroll Records
Training Records
Other

Describe the Record(s) Requested:

We are requesting all 911 recordings, all body camera recordings, all CAD reports, all calls for service, all accident/crash reports, all crime statistics, all dash camera recordings, all employments/personnel files, all evidence collected, all HALO videos, all incidents and the full reports, all mug shots, all policies and procedures, all SSPR/Job performance evaluations, all timesheets and payroll records, and all training records for the following officers: Karl Krycia, Christopher Taylor, and Joseph Cast for date of incident July 31, 2019.

Be as specific as possible and/or use the fields below to provide specific information about your request.

Specific Information on Requested Records

If applicable to your request, enter specific information below to assist with locating your requested records.

Incident/Case Number:

██████ / ██████

Date of Occurrence:

Required for Body camera recording requests.

Time of Occurrence:

4:55PM

Required for Body camera recording requests.

Location of Occurrence:

300 Bowie Street, Austin Texas 78703

Please be specific as possible by providing an exact address, parcel number, or intersection, etc.
Required for Body camera recording requests.

Involved Parties:

Karl Krycia, Christopher Taylor, Joseph Cast

Please provide the name of the involved parties and/or Officer name. Required for Body camera recording requests.

Client Name:

Mauris Nishanga DeSilva

Please provide the name of the involved parties and/or Officer name. Required for Body camera recording requests.

Records will be provided using the method selected below:**Delivery Method:**

Electronic Delivery via the Public Records Center

Please note not all public documents are available in electronic format. If the document(s) requested are not available electronically, we will make them available for inspection or by paper copy in accordance with the Public Information Act.

In making this request I understand that the information will be released only in accordance with the Public Information Act and the City of Austin reserves the right to seek an opinion from the Texas Attorney General with regard to the release of said information. If an Attorney General's opinion is sought by the City of Austin you will be notified in writing.

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✓ ↩ On 10/30/2019 1:50:28 PM, Aspen Dunaway wrote:

TO: "Austin Public Records Center"[austintx@mycusthelp.net]
CC: "Aspen Dunaway"[atty@austinfairlaw.com]

Yes, we are requesting for the police department to seek a ruling from the Texas Attorney's General's Office concerning the confidential departmental records.

Yaritza Hinojosa
Paralegal to Aspen Dunaway

Dunaway Law Firm P.C.
1411 West Ave, Suite 100
Austin, Texas 78701
Ph: (512) 469-7941
Fx: (512) 479-9510

From: Austin Public Records Center [mailto:austintx@mycusthelp.net]

Sent: Saturday, October 26, 2019 11:31 AM
To: Dunaway Admin
Subject: [Austin Public Records Center] :: R026515-102319

> ☒ On 10/28/2019 3:07:48 PM, Austin Public Records Center wrote:

> ☒ On 10/26/2019 11:35:44 AM, Austin Public Records Center wrote:

> ☒ On 10/26/2019 11:31:36 AM, Austin Public Records Center wrote:

> ☒ On 10/26/2019 11:30:07 AM, Austin Public Records Center wrote:

> ☒ On 10/23/2019 4:33:57 PM, Austin Public Records Center wrote:

> ☒ On 10/23/2019 9:53:25 AM, Austin Public Records Center wrote:

> ☒ On 10/23/2019 9:53:24 AM, Aspen Dunaway wrote: